

IN THE COUNTY COURT, THIRD
JUDICIAL CIRCUIT IN AND FOR
TAYLOR COUNTY, FLORIDA.

STATE OF FLORIDA

Vs.

CASE NO. 08-469-CT

SARAH A. EVANS,
Defendant.

ORDER ON MOTION TO SUPPRESS

This cause before the court upon Motion to Suppress filed on behalf of the defendant, Sarah A. Evans. Present for this hearing was the defendant Evans, counsel for the defendant Ray Curtis, Assistant Public Defendant, and Elise Blair, Assistant State Attorney.

The Court took testimony and heard argument of counsel. The parties stipulated as a factual basis to be considered in this case, the probable cause affidavit of Deputy Ricketson.

The initial basis for the stop was a violation of Chapter 403.4123 et seq which prohibits littering "litter" is defined by that statute as, garbage, rubbish, trash or refuse, among other things. Nowhere in the statute are those terms defined other than being objects of litter.

As those terms are not defined in particular, their common every day meaning is applied, to-wit:

"Garbage: Food waste, unwanted or useless material.

Rubbish: Useless waste, or rejected matter, trash, something worthless or nonsensical.

Trash: Something of little worth, rubbish.

Refuse: Rejected or worthless matter, rubbish, trash".

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APR 15 2009

ANNIE MAE MURPHY, CLERK OF COURT

BY _____ DC

(Merriam-Webster Dictionary. Merriam Webster, Inc. 1994)

Related to the pea, the peanut's growth forms underground, where it ripens into what might be called a delicacy, at least by any true southern and would never be referred to as rubbish.

To those uninformed as to the proper manner of eating a boiled peanut please read on. There may be slight variances but it generally describes the art of eating the boiled peanut by separating the peanut from its outer covering called the "hull" or "pod" to the discriminating peanut consumer. It is a procedure that yields much reward to the taste buds.

Taken between the thumb and forefinger, pressure is applied to the "hull" or "pod" until such pressure produces an aperture, exposing, at least partially the peanut. If too much pressure is applied the peanut will become crushed and more labor is required to extricate the peanut from its "hull" or "pod".

Once the aperture reaches a satisfactory width, the "hull" or "pod" is placed between the thumb and forefinger on one hand. The left hand if the consumer is right handed, the right hand of the consumer is left handed. If the consumer is ambidextrous it would make no difference and is left to the good judgment of the consumer.

Once grasped in this manner and the outer covering, ("hull" or "pod") is stabilized the consumer would then take the opposite hand, by thumb and forefinger, open the aperture to any extent that one half of the "hull" or "pod" breaks away and exposes the peanut. The peanut is then removed by taking the thumb or forefinger of the hand whose thumb and forefinger are not holding the remaining half or the "hull" or "pod" which contains the peanut. There is another method of accomplishing the removal of the peanut from the "hull" or "pod". The consumer places the intact outer covering (the "hull" or "pod") containing the peanut between the upper front teeth and the lower front teeth, parallel to the teeth. The

consumer then bites down with sufficient pressure to cause the aperture to appear in the outer-cover, (the "hull" or "pod"). The teeth should be the consumer's own. The consumer should be careful not to exert too much pressure on the "hull" or "pod" as it may cause the peanut to become crushed. If the peanut becomes crushed, extensive labor may be needed to remove the peanut.

The "hull" or "pod" is then removed from the teeth, by the thumb and forefinger of whichever hand the consumer considers proper and removes the peanut from the "hull" or "pod" as described above.

There is a less rigorous means of removing the peanut from the "hull" or "pod" after the aperture in the "hull" or "pod" has been accomplished by using the teeth as described above.

Once the aperture has been accomplished the consumer, with the thumb and forefinger of whichever hand is chosen, grasp the outer covering (the "hull" or pod") hold it to the front teeth again preferably this is his or her own teeth, the peanut is then removed from the "hull" or "pod" by the teeth.

The latter method, has by the Court's experience been the preferred method, especially when operating a motor vehicle, by walking, sitting or otherwise. It also appears to be a popular method.

This appears to be correct as the defendant sort of described what she did to create the "hull" which was thrown from the vehicle. It certainly is consistent with the above-described "teeth method". There are some variations of both the "thumb and forefinger" method and the "teeth method". An example. So consumers use the thumb and forefinger to open the "hull" or "pod" and use the teeth to extract the peanut. This could be called the "modified teeth/thumb forefinger" method.

However, by whichever method is used, this is how the peanut “hull” or “pod” is produced in the context of this case and to which we must rule.

This lowly peanut, as an edible agricultural product, which has drawn the attention of great historical figures in Booker T. Washington, and from which many useful products to mankind have been derived is now, at this time and place has become an evidentiary gargantuan.

We are here gathered to determine if this discarding of this simple peanut “hull” or “pod”, a covering of one of nature's culinary delights, has risen or sunk, depending on your point of view, to a level that transforms this simple agricultural by product (ie the “hull”) from something that held a savory edible to a deciding factor, to the intellect, in a constitutional “peanut boil” between the State of Florida and its immense resources and the defendant SARAH A. EVANS.

Consider the lowly boiled peanut “hull”, sadly, it comes within the definition of litter as defined by Florida law (Chapter 403.413 et seq Florida Statutes) once the defendant expelled the “hull” from her vehicle causing it to fall on the ground.

Because the constitutional question has been considered in favor of the State of Florida coupled with fact that Deputy Ricketson personally observed the defendant expel the “hull” from her vehicle, the infraction of “littering” had occurred.

Therefore the stop of the defendant's vehicle was proper, the request for her driver's license was proper as was her arrest for operating her vehicle when her driving privilege has been revoked or suspended.

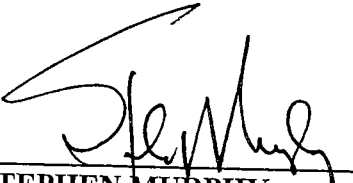
The search incident to the lawful arrest was constitutionally permitted and the evidence seized as a result of that search is admissible in evidence.

Upon consideration of the above and foregoing it is

ORDERED AND ADJUDGED

That the Motion to Suppress be and the same is hereby DENIED.

DONE AND ORDERED in Perry, Taylor County, Florida this 13th day of April, 2009.



STEPHEN MURPHY
COUNTY COURT JUDGE

cc: **State Attorney**
of **Ray Curtis, Asst. Public Defender**